

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

HARRIET SAVITCH,

Plaintiff pro se,

v.

**MARTIN KIRK, individually and in
his official capacity as Code Enforcement
Officer of the Department of Land Use
of New Castle County, and NEW
CASTLE COUNTY,**

Defendants.

Case No. 07-215 SLR

**DEFENDANTS, MARTIN KIRK AND NEW CASTLE COUNTY'S,
MOTION TO COMPEL DISCOVERY**

Defendants Martin Kirk and New Castle County (hereinafter "Defendants") by and through undersigned counsel, hereby move this Honorable Court to compel Plaintiff, Harriet Savitch (hereinafter "Plaintiff"), to produce discovery pursuant to Federal Rule of Civil Procedure 33 and 34. In support of their Motion, Defendants aver that good cause for their request is established through the following:

1. On April 20, 2007, Plaintiff filed a Complaint alleging that Defendants violated her right to be free from an unlawful seizure under the Fourth Amendment of the United States Constitution. In addition, Plaintiff claimed that the Defendants' actions caused her to be unlawfully detained and caused her to suffer mental anguish and emotional distress. On August 20, 2007, Defendants were served with a copy of the Plaintiff's Complaint.

2. On September 6, 2007, Defendants filed a Motion for Summary Judgment in response to Plaintiff's Complaint. On October 31, 2007, this Honorable Court denied the Defendants' Motion for Summary Judgment and ordered that all discovery be completed on or before February 29, 2008.

3. On November 29, 2007, Defendants' counsel sent Plaintiff a letter requesting that she return two Authorizations for Health Information Disclosure forms to the New Castle County Law Department no later than December 7, 2007. The November 29, 2007 letter also indicated that counsel had attempted to contact Plaintiff at her last known telephone number without success on several occasions.

4. On December 11, 2007, Defendants' counsel sent Plaintiff a second letter via certified and first class mail requesting that Plaintiff contact the New Castle County Law Department immediately. The December 11, 2007 letter indicated that the plaintiff's telephone number seemed to be disconnected. The certified copy of the December 11, 2007 letter was returned to New Castle County Law Department unclaimed.

5. On December 13, 2007, Defendants caused two sets of interrogatories and two sets of request for production to be served on Plaintiff via United States Mail, postage prepaid.

6. Pursuant to Federal Rule of Civil Procedure 33, the answers to the Defendants' interrogatories are due thirty (30) days after the service of the interrogatories on the Plaintiff.

7. Pursuant to Federal Rule of Civil Procedure 34, the answers to the Defendants' request for production are due thirty (30) days after the service of the request.

8. Pursuant to Federal Rule of Civil Procedure 5(b)(2)(B) and 6, three (3) days shall be added to the time Plaintiff has to produce answers to both the interrogatories and request for production as the requests were served via United States Mail. Accordingly, Plaintiff's responses for both the interrogatories and request for production were due on January 17, 2008.

9. On January 8, 2008, counsel sent Plaintiff a letter via certified and first class mail requesting that she return the Authorization of Health Information Disclosure forms to New Castle County. The January 8, 2008 letter also requested that Plaintiff contact the County Law Department immediately. The certified copy of the January 8, 2008 letter was returned to the New Castle County Law Department unclaimed.

10. On January 23, 2008, counsel sent Plaintiff a letter via certified and first class mail requesting that she contact the County Law Department within ten days or counsel would be forced to file a Motion to Compel Discovery. The January 23, 2008 letter also reiterated that discovery must be completed prior to February 29, 2008 as required by this Honorable Court. The certified copy of the January 23, 2008 letter was returned to the New Castle County Law Department unclaimed.

11. As of February 19, 2008, counsel has not had any contact with Plaintiff. Counsel has in good faith made all reasonable efforts in attempting to contact Plaintiff at her last known residence and at her last known telephone number.

12. On February 20, 2008, Counsel was attempting to file this Motion to Compel Discovery when Counsel received a message from Plaintiff indicating that she had not picked up her mail until recently. The message also indicated that Plaintiff would get the medical authorization forms to the County after consulting her attorney.

13. On February 20, 2008, at approximately 4:20 p.m. counsel contacted Plaintiff, and asked if Plaintiff was represented. Plaintiff indicated that she was looking for an attorney, however she is not currently represented. Counsel explained to Plaintiff that New Castle County had made several attempts to contact her. Plaintiff indicated that she was dealing with other concerns and was unable to deal with the pending suit.

14. Counsel has made a good faith and reasonable effort in contacting Plaintiff and requesting discovery in this matter prior to the Court's February 29, 2008 deadline.

15. Defendants, Kirk and New Castle County, would suffer severe prejudice if Plaintiff does not immediately respond to the Defendants' discovery request. While the Defendants' acknowledge that Plaintiff is currently *pro se*, she has had at least ten months to retain an attorney in this matter.

WHEREFORE, Defendants Martin Kirk and New Castle County respectfully request that this Honorable Court enter an Order prohibiting Plaintiff from the introduction at trial of any evidence responsive to Defendants' discovery requests, or in the alternative, an Order requiring Plaintiff to provide full and complete responses to the above requests within ten days.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Harshal Purohit', with a long horizontal flourish extending to the right.

Harshal Purohit, Assistant County Attorney (#4593)
New Castle County Law Department
87 Reads Way
New Castle, DE 19720
(302) 395-5272
Attorney for New Castle County and Martin Kirk

Dated: February 21, 2008

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Plaintiff pro se,

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Officer of the Department of Land Use :
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CASTLE COUNTY, :**

Defendants.

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ORDER

AND NOW, TO WIT, the foregoing motion having been considered, it is hereby ORDERED that Plaintiff must provide full and complete discovery responses to the Defendants' requests within ten days of this Order. In the event, that full and complete discovery responses are not provided to the Defendants, Plaintiff is prohibited from the introduction at trial of any evidence responsive to Defendants' discovery requests

Judge

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ORDER

AND NOW, TO WIT, the foregoing motion having been considered, it is hereby ORDERED that Plaintiff is prohibited from the introduction at trial of any evidence responsive to Defendants' discovery requests.

Judge